

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-03-KC-022
)	
Lebanon Educational Broadcasting Foundation)	NAL/Acct.No. 200332560022
Licensee of Radio Station KTTK in)	
Lebanon, Missouri)	FRN 0002-5292-38
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 18, 2003

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Lebanon Educational Broadcasting Foundation (“Lebanon”), licensee of radio station KTTK, Lebanon, Missouri, apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000) for willful violation of Section 73.3527(c)(1) of the Commission's Rules (“Rules”).¹ Specifically, we find Lebanon apparently liable for failure to make available all required items in the station’s public inspection file.

II. BACKGROUND

2. On January 30, 2003, an agent from the FCC’s Kansas City Field Office inspected FM station KTTK located in Lebanon, Missouri. The station’s public file did not contain a contour map, a copy of “The Public and Broadcasting” manual, and current issues/programs lists. None of these items were made available upon request during regular business hours.

III. DISCUSSION

3. Section 73.3527(a)(2)² of the Rules requires every non-commercial educational broadcast licensee or permittee to maintain a public inspection file containing certain material. Section 73.3527(c)(1) of the Rules requires the public inspection file be available for public inspection at any time during regular business hours. On January 30, 2003, Lebanon failed to make available upon request KTTK’s complete public inspection file during regular business hours. Section 73.3527(e)(3) of the Rules³ requires a copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and to be retained in the public file for as long as they reflect current, accurate information regarding the station.

¹ 47 C.F.R. § 73.3527(c)(1).

² 47 C.F.R. § 73.3527(a)(2).

³ 47 C.F.R. § 73.3527(e)(3).

No contour map was available at the time of inspection. Section 73.3527(e)(7) of the Rules⁴ requires a copy of The Public and Broadcasting be available in the public file. The manual was not available at the time of inspection. Section 73.3527(e)(8) of the Rules⁵ requires a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration and title of each program in which the issue was treated. The lists shall be retained in the public inspection file until final action has been taken on the station's next renewal application. The issues/programs list for the last two quarters of 2001 and all four quarters of the year 2002 were not available in the public file at the time of inspection.

4. Based on the evidence before us, we find that on January 30, 2003, Lebanon willfully⁶ violated Section 73.3527(c)(1) of the Rules by failing to make available during regular business hours the complete public inspection file for station KTTK.

5. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount is \$10,000 for violation of the public file rules.⁷ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁸ Because KTTK's public file contained a portion of the required items, a downward adjustment of the base forfeiture amount for this violation from \$10,000 to \$4,000 is warranted. Considering the entire record and applying the statutory factors listed above, this case warrants a \$4,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁹ and Sections 0.111, 0.311 and 1.80 of the Rules,¹⁰ Lebanon Educational Broadcasting Foundation is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of four thousand dollars (\$4,000) for willful violation of Section 73.3527(c)(1) of the Rules, by failing to make available during regular business hours the complete public inspection file.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Lebanon Educational Broadcasting Foundation SHALL PAY the full

⁴ 47 C.F.R. § 73.3527(e)(7).

⁵ 47 C.F.R. § 73.3527(e)(8).

⁶ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁷ 47 C.F.R. § 1.80(b)(4).

⁸ 47 U.S.C. § 503 (b)(2)(D).

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 C.F.R. §§ 0.111, 0.311, 1.80.

amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹¹

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by regular and Certified Mail Return Receipt Requested to Lebanon Educational Broadcasting Foundation at P. O. 1232, Lebanon, Missouri 65536.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney

¹¹ See 47 C.F.R. § 1.1914.

District Director, Kansas City Office
Enforcement Bureau

Attachment